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Attorneys for Debtors and Reorganized Debtors

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION,

- and -

**PACIFIC GAS AND ELECTRIC
COMPANY,**

Debtors.

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

** All papers shall be filed in the Lead Case, No. 19-30088 (DM).*

Bankruptcy Case No. 19-30088 (DM)
Chapter 11 (Lead Case) (Jointly Administered)

**DECLARATION OF JOHN R. SIMON IN SUPPORT
OF REORGANIZED DEBTORS' MOTION FOR
ENTRY OF AN ORDER (I) APPROVING
SETTLEMENTS RESOLVING DISPUTES WITH
CERTAIN INSURERS, AND (II) GRANTING
RELATED RELIEF**

Date: October 27, 2022
Time: 11:00 a.m. (Pacific Time)
Place: (Tele/Videoconference Only)
United States Bankruptcy Court,
Courtroom 17, 16th Floor
San Francisco, CA 94102

1 I, John R. Simon, pursuant to section 1746 of title 28 of the United States Code, hereby
2 declare under penalty of perjury that the following is true to the best of my knowledge, information, and
3 belief:

4 1. I am Executive Vice President, General Counsel and Chief Ethics and Compliance
5 Officer of PG&E Corporation (“PG&E,” together with Pacific Gas and Electric Company (the
6 “Utility”), the “Reorganized Debtors” or “Debtors” in the above-captioned chapter 11 cases). I have
7 been employed in this role since September 2020. Prior to September 2020, I had various senior
8 leadership roles at PG&E, including interim Chief Executive Officer from January 2019 to May 2019
9 and Executive Vice President, Law, Strategy and Policy from May 2019 to September 2020. I have been
10 employed by PG&E since April 2007. In my current role as Executive Vice President, General Counsel
11 and Chief Ethics and Compliance Officer, I am responsible for advising the leadership of PG&E,
12 including senior officers and the PG&E Board of Directors on legal, corporate governance, ethics and
13 compliance issues. I submit this declaration in support of the motion to approve settlements pursuant to
14 Federal Rule of Bankruptcy Procedure 9019 resolving disputes with certain of PG&E’s insurance
15 carriers (the “Insurance Settlements”).
16

17 2. I am authorized to submit this declaration on behalf of the Reorganized Debtors.
18 The facts set forth in this declaration are based upon my personal knowledge, my review of relevant
19 documents, and information provided to me by the Reorganized Debtors’ other employees or the
20 Reorganized Debtors’ legal, restructuring, and financial advisors. If called upon to testify, I would testify
21 to the facts set forth in this declaration.
22

23 3. I am generally knowledgeable and familiar with the Debtors’ chapter 11 cases
24 (the “Chapter 11 Cases”), including the *Debtors’ and Shareholder Proponents’ Joint Chapter 11 Plan*
25 *of Reorganization dated June 19, 2020* [Docket No. 8048] (the “Plan”) and, in particular, the key
26 elements of the settlements that are the subject of this motion. This motion concerns settlements
27 involving PG&E’s 2017 and 2018 directors and officers liability insurance policies (the “D&O
28

1 **Policies**”). Fundamentally, the D&O Policies provide coverage both to PG&E’s directors and officers
2 and to PG&E itself, up to the total annual limits of liability of \$200 million in each year, which limits
3 apply to defense costs, settlements, and judgments, combined, for claims that trigger the D&O Policies.

4 4. There are a number of claims that PG&E has taken the position are covered by
5 the D&O Policies. These include: (1) securities claims brought in the action entitled *In re PG&E Corp.*
6 *Securities Litigation*, No. 5:18-cv-03509-EJD (N.D. Cal.) (the “**Securities Litigation**”) as well as
7 securities proofs of claim filed in the Chapter 11 Cases against the Debtors (the “**Securities Claims**”);
8 and (2) claims for reimbursement to the Debtors for amounts paid pursuant to their indemnification
9 obligations in connection with certain claims (the “**FVT Claims**”) assigned by the Debtors under the
10 Plan to the PG&E Fire Victim Trust (the “**FVT**”) against their former directors and officers related to
11 the 2017 North Bay Fires or the 2018 Camp Fire.

12 5. The insurance carriers that issued the D&O Policies to PG&E (collectively, the
13 “**D&O Insurers**”) have taken the position that the securities claims and FVT Claims arising out of the
14 2017 North Bay Fires and the separate securities claims and FVT Claims arising out of the 2018 Camp
15 Fire share a “common nexus” and all of the claims fall exclusively within PG&E’s 2017 tower of
16 D&O Policies (the “**2017 Tower**”) and do not trigger the additional \$200 million in D&O coverage
17 provided by PG&E’s 2018 tower of D&O Policies (the “**2018 Tower**”). PG&E disagrees with the
18 D&O Insurers’ position and, pursuant to the mandatory dispute resolution procedures set forth in the
19 2017 Tower and the 2018 Tower D&O Policies, commenced a confidential arbitration (the
20 “**Arbitration**”) to seek a ruling that the claims arising out of the 2018 Camp Fire fall within PG&E’s
21 2018 Tower. The Arbitration has been stayed pending approval of the Insurance Settlements.

22 6. As part of the Plan, the Debtors assigned certain rights and causes of action to
23 the FVT, including certain claims against former officers and directors. The recovery for these claims,
24 however, could only come out of the Side B portion of these same D&O Policies. The FVT pursued
25
26
27
28

1 those claims against the D&O Action Defendants in the Superior Court of California, San Francisco
2 County, captioned *Trotter v. Williams, et al.* (Lead Case No. CGC-17-562591) (the “**D&O Action**”).
3 Thus, the Insurance Settlements will resolve the D&O Action, largely resolve the Arbitration and
4 facilitate the potential settlement of the Securities Claims, as any potential settlement of the Securities
5 Claims with insurance proceeds from the D&O Policies without settling the claims arising out of the
6 D&O Action would have likely created disputes with the FVT.
7

8 7. The Insurance Settlements will resolve the above-interrelated disputes through
9 separate settlements. This motion solely seeks approval of the Insurance Settlements. In addition,
10 although the Reorganized Debtors are not seeking approval of the July 26, 2022 settlement agreement
11 entered into between the FVT, Reorganized Debtors and certain former officers and directors of the
12 Reorganized Debtors (the “**D&O Action Settlement**”), the D&O Action Settlement is conditioned
13 upon this Court’s approval of the Insurance Settlements.
14

15 8. The Reorganized Debtors have retained experienced and well regarded legal
16 representation that has advised PG&E with respect to the disputes at issue in this motion, including
17 Covington & Burling LLP with respect to the Arbitration, Latham & Watkins LLP with respect to the
18 D&O Action, and Weil, Gotshal & Manges LLP with respect to related bankruptcy issues. Each of the
19 firms has advised PG&E with respect to the Insurance Settlements and has been actively involved in the
20 negotiation of these matters. I understand that the Insurance Settlements are the product of good faith,
21 arm’s-length negotiations between the parties over many months – all with the extensive help of an
22 experienced mediator, Robert A. Meyer, from JAMS.

23 9. The Insurance Settlements provide substantial benefit to the Reorganized Debtors
24 and their stakeholders for at least the following reasons:

- 25 • The Insurance Settlements will allow the Reorganized Debtors to avoid the continued
26 expenses of discovery against it as a non-party in the D&O Action;
- 27 • The Insurance Settlements will allow the Reorganized Debtors to avoid expenses in
28 connection with satisfying potential indemnification obligations to the defendants in

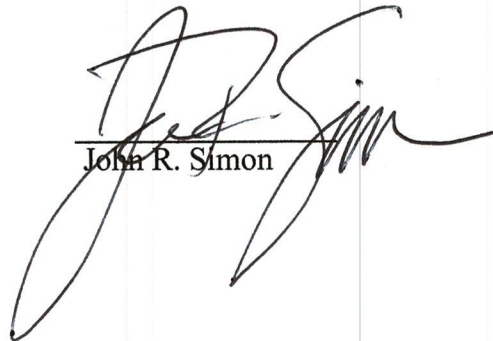
the D&O Action;

- The Insurance Settlements will resolve hotly contested disputes with most of PG&E's D&O Insurers;
- The Insurance Settlements will provide the Reorganized Debtors with the certainty of obtaining at least \$272 million in insurance proceeds that can be used to settle the D&O Action and potentially the Securities Claims.

10. The Insurance Settlements therefore appropriately balance the risks, complexity, and expense associated with continuing to proceed with the Arbitration.

11. Senior members of management and the Board of Directors evaluated the disputes concerning the D&O Policies and the Arbitration and PG&E has received advice concerning the Arbitration and the Insurance Settlements from experienced counsel. After considering this advice and the benefits of the Insurance Settlements, including those set forth above, PG&E has determined in the exercise of its business judgment that the Insurance Settlements are fair and balanced settlements that are in the best interests of the Debtors' estates and the Debtors' economic stakeholders as a whole. Indeed, I signed the Insurance Settlements on behalf of PG&E, and was authorized to do so, based on my belief that the Insurance Settlements are in the best interests of PG&E and its economic stakeholders as a whole.

Dated: September 29, 2022
Oakland, California



John R. Simon